

Appl. No. 10/813,465
Amdt dated Feb. 11, 2005
Reply to Office Action of Aug. 11, 2004

REMARKS/ARGUMENTS

Amendments to the specification and claims have been made to comply with examiner concerns, to clarify aspects in the claims, and to refine claim language. The amendments are believed to be consistent with the disclosure originally filed. The amendments have also been particularly presented to avoid, where applicable, any admission or estoppel, generally, negatively effecting the scope of protection provided by the disclosure and claims of the present application, and particularly to avoid prosecution history estoppel, limitation of the scope of equivalences, or the like. Claims 1-29 remain in this application.

Specification

The action raised concerns about the disclosure because of informalities in the priority statement. This paragraph of the specification has been amended.

Claims

The Applicant has amended claim 12 to state, "a thumb rest", to address the office's concern regarding informalities in the claim.

35 U.S.C. § 101 Concerns

The action expressed 35 U.S.C. §101, concerns regarding claims 18, 28 and 29. The Applicant has amended claims 18, 28 and 29 to remove the terms "a finger" and "a thumb" as well as to clarify the claims.

35 U.S.C. § 112 Concerns

The action expressed 35 U.S.C. § 112, second paragraph concerns to the claims. With respect to claim 1, the Applicant has amended the claim to address the clarity concerns raised by

Appl. No. 10/813,465
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the office. The Applicant has clarified that a blade element is user removable *from said blade body member*. Applicant asserts that claim 1 as well as its dependencies are not indefinite.

35 U.S.C. §§ 102 and 103 concerns

The examiner has expressed concerns to the claims under §102 (b) and cites Richardson et al ("Richardson"). A claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. The identical invention must be shown in complete detail as is contained in the claim. Independent claims 1 and 19 are differentiated from the steps taught by the Richardson reference and the Applicant respectfully requests reconsideration and allowance of all of the claims for the following reasons.

Independent claim 1 includes, *inter alia*, "[a] blade element is user removable from said blade body member" and claim 19 includes, *inter alia*, "a blade element removably inserted by a user into a blade body member". Further, as stated in the specification, "the use of cutting instrument (1) can involve removing the blade element (3)..." The Applicant has amended these claims to further clarify the removable limitation as supported by the disclosure.

This approach is entirely unlike that taught by the Richardson reference which does not teach a user removable blade element or a blade element removably inserted by a user. While the Richardson reference has drawings in which *a crown member and blade* is removed, the Applicant respectfully points out that this is merely to show the underlying elements in the figures -- rather than teaching that a blade is removable. In fact, user removal of a blade element does not appear in the Richardson disclosure or claims.

Because the Richardson reference does not teach all the elements or steps of the invention as claimed, independent claims 1 and 19, as well as all dependent claims thereof, are not anticipated by the Richardson reference. Since claims 1 and 19 are believed to be in condition for allowance, claims 2-18 and 20-29 are also believed to be in condition for allowance in that they each incorporate by reference all the limitations of the claims to which they are dependent.

Appl. No. 10/813,465
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See 37 C.F.R. §1.75(c). Should the office require further explanation, the Applicant stands ready to supplement the above remarks should it be necessary.

Further, concerns under § 103 were raised with respect to only dependent claims. Claims 2-18 and claims 20-29 are ultimately dependent on independent claim 1 or claim 19. Since claims 1 and 19 are believed to be in condition for allowance, claims 2-18 and 20-29 are also believed to be in condition for allowance in that they each incorporate by reference all the limitations of the claims to which they are dependent. See 37 C.F.R. §1.75(c). Should the office require further explanation, the Applicant stands ready to supplement the above remarks should it be necessary.

Because the additional prior art cited by the Examiner has been included merely to show the state of the prior art and has not been utilized to reject the claims, no further comments concerning these documents are considered necessary at this time.

Importantly, it should be understood that the amendments submitted herein are made as a matter of practicality only, and should not to be construed as creating any situation of file wrapper estoppel or the like as all rights are expressly reserved and may be pursued in this or other applications, such as divisionals, continuations, or continuations-in-part if desired. Amendments are made for tangential issues of clarity and as a matter of the Office's convenience or expedience only. The amendments should not be interpreted as an action that in any way surrenders a particular equivalency, surrenders any right to patent coverage, or otherwise limits any rights that the Applicant may now or hereafter assert. It should be understood that, unless and to the extent deemed broadened by this amendment, and even as amended, the Applicant expressly reserves all rights, including but not limited to: all rights to maintain the scope of literal coverage with respect to any element as may have existed under the language previously presented, all rights to maintain the scope of equivalency coverage as may have existed under the language previously presented, and all rights to re-present the prior language at any time in this or any subsequent application. To the extent currently foreseeable, no change or reduction in

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direct or equivalency coverage is believed to exist, and no change or reduction in *direct or* equivalency coverage is intended through the presentation of this amendment.

The Applicant having addressed each of the action's concerns, respectfully requests reconsideration and withdrawal of the rejections and objections to the application. Allowance of claims 1-29 is requested at the examiner's earliest convenience.

Dated this 11 day of February, 2005.

Respectfully submitted,
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